

ATTACHMENT A

PROCEDURE FOR PRE-ADVERTISING ADJUSTMENT OF MBE/WBE PARTICIPATION GOALS

A. Affirmative Marketing Participation Goals:

The combined goals below were established by the Division of Capital Asset Management and Maintenance (DCAMM) and the Supplier Diversity Office (SDO) and require a reasonable representation of both MBE and WBE firms.

Design Participation: Combined MBE/WBE goal of (17.9%)
Construction Participation: Combined MBE/WBE goal of (10.4%)

All documentation submitted in connection with MBE/WBE credit must be true, accurate and correct to the best of your knowledge. Your signature on any MBE/WBE goal-related document means that you have read and understand it. Any false claims for MBE/WBE credit are subject to the Massachusetts False Claims Act and any applicable civil or criminal penalties as determined by the Massachusetts Attorney General's office.¹

B. Criteria for Adjustment of Goals:

An Awarding Authority may file a written request for the adjustment of participation goals with the Executive Director of the SDO prior to the advertising of the contract.² Factors that may be considered include any or all of the following:

- Actual availability of SDO certified Minority-Owned Business Enterprises (MBE) or Women-Owned Business Enterprises (WBE);
- The geographic location of the project;
- The scope of work of the project including the opportunities for sub-contracting and subdividing the work and other relevant factors; and
- The SDO, at the request of the awarding authority or any perspective bidder may agree to assist in MBE/WBE outreach. The SDO is not required nor obligated to do this. It is a complementary service provided, and one the SDO strongly suggests be taken advantage of.

C. Project Thresholds:

Participation Goals³ can be adjusted by the Awarding Authority without filing a formal request with SDO if the total estimated construction or design cost is \$100,000 or less.

D. Supporting Documentation for Design and Construction Projects will include, but are not limited to the following:

1. Documents to support a reduction/waiver request should include a general description of the project, a copy of the detailed project estimates and the deadline for placement of project advertisement;
2. The reasons that the Awarding Authority or its representative is requesting a reduction/waiver of the MBE/WBE participation goals;
3. Documentation that there may be a lack of eligible MBE/WBEs to perform the design or construction contract work after reviewing the SDO Business Directory;
4. Documentation that all subcontracting opportunities were identified and made available to meet the MBE/WBE participation goals;
5. The Awarding Authority may also submit any other information supporting its request for adjustment of the MBE/WBE participation goals; and
6. All applicable sections of the **Massachusetts False Claims Act** as well as any related civil or criminal penalties as determined by the Massachusetts Attorney General are incorporated by reference into this document.⁴

E. Request for Adjustment of Design and Construction Goals:

1. Requests by an Awarding Authority for Adjustment of MBE/WBE Participation Goals must be submitted in writing no less than ten (10) working days before the deadline for placement of advertisements for the contract. Applications should be directed to the SDO Director of Construction Reform, One Ashburton Place, Room 1017, Boston, MA 02108 or by e-mail to: John.B.Fitzpatrick@state.ma.us.
2. Requests for adjustments on Design and Construction Goals must be applied for separately and are not interchangeable. Participation credits for modular projects can be awarded under either the design or construction goals, but not both.
3. The written request for the reduction/waiver must include the reasons for it and all supporting documentation.
4. The SDO will provide a written response prior to the advertising deadline.

¹ See generally, MG.L. c.12, §§5A-5O, inclusive.

² In rare instances after advertising and before bidding based on new information you may request an adjustment post-advertisement. Any adjustment granted must be the subject of an Addendum.

³ For state-assisted building projects.

⁴ See generally, MG.L. c.12, §§5A-5O, inclusive.